

INVITATION FOR BIDS

(Must be modified if applicable State or Local law so requires)

The *City of LaSalle* will receive Bids for **THE NORTH JOLIET STREET SEWER REHABILITATION** project until 10:00 AM., on the 21st day of April, 2011, at 745 2nd Street, La Salle, IL at which time and place all bids will be publicly opened and read aloud.

Bids are invited upon the several items and quantities of work as follows:

- Item 1. Separation of storm water from the existing combination sewer by means of a separate storm sewer.
- Item 2. Removal and replacement of the existing combination sewer.
- Item 3. Restoration of disturbed roadway surfaces and landscape.

Contract Documents, including Drawings and Technical Specifications, are on file at the office of *City of La Salle Engineer* at 745 2nd Street, La Salle, IL 61301.

Copies of the Contract Documents may be obtained by depositing \$25.00 with the *City of La Salle* for each set of documents so obtained. Each such deposit will be refunded if the Drawings and Contract Documents are returned in good condition within 10 days after Bid opening.

A certified check or bank draft, payable to the order of *City of La Salle*, negotiable U.S. Government bonds (at par value) or a satisfactory Bid Bond executed by the Bidder and an acceptable surety in an amount equal to five percent (5%) of the total Bid shall be submitted with each Bid.

Attention is called to the fact that not less than the minimum salaries and wages as set forth in the Contract Documents must be paid on this project, and that the Contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex, or national origin.

The *City of La Salle* reserves the right to reject any or all Bids or to waive any informalities in the bidding.

Bids may be held by the *City of La Salle* for a period not to exceed 60 days from the date of the opening of Bids for the purpose of reviewing the Bids and investigating the qualifications of Bidders, prior to awarding of the Contract.

Date April 7, 2011

City of La Salle

By Michael J. Furlan

Title CITY ENGINEER

INSTRUCTIONS TO BIDDERS

1. USE OF SEPARATE BID FORMS

These Contract Documents include a complete set of bidding and contract forms which are for the convenience of Bidders and are not to be detached from the Contract Document, filled out, or executed. **Separate copies of Bid Forms are furnished for that purpose.**

2. INTERPRETATIONS OF ADDENDA

No oral interpretation will be made to any Bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an interpretation shall be made in writing to the Local Public Agency. Any inquiry received seven or more days prior to the date fixed for opening the Bids will be given consideration. Every interpretation made to a Bidder will be in the form of an Addendum to the Contract Documents, and when issued, will be on file in the office of the Local Public Agency and the office of the Engineer at least five days before Bids are opened. In addition, all Addenda will be mailed to each person holding Contract Documents, but it shall be the Bidder's responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the Contract and all Bidders shall be bound by such Addenda, whether or not received by the Bidders.

3. INSPECTION OF SITE

Each Bidder should visit the site of the proposed work and fully acquaint himself with the existing conditions there relating to construction and labor, and should fully inform himself as to the facilities involved, the difficulties and restrictions attending the performance of the Contract. The Bidder should thoroughly examine and familiarize himself with the Drawings, Technical Specifications, and all other Contract Documents. The Contractor by the execution of the Contract shall in no way be relieved of any obligation under it due to his failure to receive or examine any form or legal instrument or to visit the site and acquaint himself with the conditions there existing and the Local Public Agency will be justified in rejecting any claim based on facts for which he should have been on notice as a result thereof.

4. ALTERNATIVE BIDS

No alternative bids will be considered unless alternative bids are specifically requested by the technical specifications.

5. BIDS

- a. All Bids must be submitted on forms supplied by the Local Public Agency and shall be subject to all requirements of the Contract Documents, including the Drawings, and these INSTRUCTIONS TO BIDDERS. All Bids must be regular in every respect and no interlineations, excisions or special conditions shall be made or included in the Bid Form by the Bidder.
- b. Bid Documents including the Bid, the Bid Guaranty, the Non-Collusion Affidavit, the Certification of Bidder Regarding Equal Employment Opportunity and the Statement of Bidder's Qualifications (if requested) shall be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the words "Bid Documents", project number, name of Bidder, and date and time of bid opening in order to guard against premature opening of the Bid.
- c. The Local Public Agency may consider as irregular any Bid on which there is an alteration of or departure from the Bid Form hereto attached and at its option may reject the same.
- d. If the Contract is awarded, it will be awarded by the Local Public Agency to a responsible Bidder on the basis of the lowest Bid and the selected Alternative Bid items, if any. The Contract will require the completion of the work according to the Contract Documents.
- e. Each Bidder shall include in his Bid the following information:

Principals

Names

Social Security Numbers

Home Addresses (City, State, Zip Code and Telephone Numbers)

Firm

Name

Treasury Number

Address

City, State and Zip Code and Telephone Numbers

6. BID GUARANTY

- a. The Bid must be accompanied by a Bid guaranty which shall not be less than five percent (5%) of the amount of the Bid. At the option of the Bidder, the guaranty may be a certified check, bank draft, negotiable U.S. Government Bonds (at par value), or a Bid bond in the form attached. The

Bid bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such Bid bond shall be within the maximum amount specified for such Company in said Circular 570. No Bid will be considered unless it is accompanied by the required guaranty. Certified check or bank draft must be made payable to the order of (Local Public Agency). Cash deposits will not be accepted. The Bid guaranty shall insure the execution of the Agreement and the furnishings of the surety bond or bonds by the successful Bidder, all as required by the Contract Documents.

- b. Revised Bids submitted before the opening of Bids, whether forwarded by mail or telegram, if representing an increase in excess of two percent (2%) of the original Bid, must have the Bid guaranty adjusted accordingly; otherwise the Bid will not be considered.
- c. Certified checks or bank drafts, or the amount thereof, Bid bonds, and negotiable U.S. Government bonds of unsuccessful Bidders will be returned as soon as practical after the opening of the Bids.

7. COLLUSIVE AGREEMENTS

- a. Each Bidder submitting a Bid to the Local Public Agency for any portion of the work contemplated by the documents on which bidding is based shall execute and attach thereto, an affidavit substantially in the form herein provided, to the effect that he has not entered into a collusive agreement with any other person, firm, or corporation in regard to any Bid submitted.
- b. Before executing any subcontract the successful Bidder shall submit the name of any proposed subcontractor for prior approval and an affidavit substantially in the form provided in Section 103 hereof.

8. STATEMENT OF BIDDER'S QUALIFICATIONS

Each Bidder shall upon request of the Local Public Agency submit on the form furnished for that purpose (a copy of which is included in the Contract Documents), a statement of the Bidder's qualifications, his experience record in constructing the type of improvements embraced in the contract, his organization and equipment available for the work contemplated, and, when specifically requested by the Local Public Agency, a detailed financial statement. The Local Public Agency shall have the right to take such steps as it deems necessary to

determine the ability of the Bidder to perform his obligations under the Contract and the Bidder shall furnish the Local Public Agency all such information and data for this purpose as it may request. The right is reserved to reject any Bid where an investigation of the available evidence or information does not satisfy the Local Public Agency that the Bidder is qualified to carry out properly the terms of the Contract.

9. UNIT PRICES

The unit price for each of the several items in the proposal of each Bidder shall include its pro-rata share of overhead so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price Bid represents the total Bid. Any Bid not conforming to this requirement may be rejected as informal. The special attention of all Bidders is called to this provision, for should conditions make it necessary to revise the quantities, no limit will be fixed for such increased or decreased quantities nor extra compensation allowed, provided the net monetary value of all such additive and subtractive changes in quantities of such items of work (i.e., difference in cost) shall not increase or decrease the original contract price by more than 25 percent (25%), except for work not covered in the Drawings and Technical Specifications as provided for in Section 109 hereof. If lump-sum Bids are deemed advisable due to local conditions, this section must be revised accordingly.

10. CORRECTIONS

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder.

11. TIME FOR RECEIVING BIDS

- a. Bids received prior to the advertised hour of opening will be securely kept sealed. The officer whose duty it is to open them will decide when the specified time has arrived. No Bid received thereafter will be considered, except when a Bid arrives by United States mail after the time fixed for opening, but before the reading of all other Bids is completed, and it is shown to the satisfaction of the Local Public Agency that the non-arrival on time was due solely to delay in the mails for which the Bidder was not responsible, such Bid will be received and considered.
- b. Bidders are cautioned that, while telegraphic modifications of Bids may be received as provided above, such modifications, if not explicit and if in any sense subject to misinterpretation, shall make the Bid so modified or amended, subject to rejection.

12. OPENING OF BIDS

At the time and place fixed for the opening of Bids, the Local Public Agency will cause to be opened and publicly read aloud every Bid received within the time set for receiving Bids, irrespective of any irregularities therein. Bidders and other persons properly interested may be present, in person or by representative.

13. WITHDRAWAL OF BIDS

Bids may be withdrawn on written or telegraphic request dispatched by the Bidder in time for delivery in the normal course of business to the time fixed for opening; provided that written confirmation of any telegraphic withdrawal over the signature of the Bidder is placed in the mail and postmarked prior to the time set for Bid opening. The Bid guaranty of any Bidder withdrawing his Bid in accordance with the foregoing conditions will be returned promptly.

14. AWARD OF CONTRACT: REJECTION OF BIDS

- a. The Contract will be awarded to the responsible Bidder submitting the lowest Bid complying with the conditions of the Invitation for Bids. The Bidder to whom the award is made will be notified at the earliest possible date. The Local Public Agency, however, reserves the right to reject any and all Bids and to waive any informality in Bids received whenever such rejection or waiver is in its interest.
- b. The Local Public Agency reserves the right to consider as unqualified to do the work of general construction any Bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the Improvements embraced in this Contract.

15. EXECUTION OF AGREEMENT: PERFORMANCE AND PAYMENT BOND

- a. Subsequent to the award and within ten (10) days after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the Local Public Agency an Agreement in the form included in the Contract Documents in such number of copies as the Local Public Agency may require.
- b. Having satisfied all conditions of award as set forth elsewhere in these documents, the successful Bidder shall, within the period specified in paragraph "a" above, furnish a surety bond in a penal sum not less than the amount of the Contract as awarded, as security for the faithful performance of the Contract, and for the payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any nature including

utility and transportation services, employed or used by him in performing the work. Such bond shall be in the same form as that included in the Contract Documents and shall bear the same date as, or a date subsequent to that of the Agreement. The current power of attorney for the person who signs for any surety company shall be attached to such bond. This bond shall be signed by a guaranty or surety company listed in the latest issue of the U.S. Treasury Circular 570 and the penal sum shall be within the maximum specified for such company in said Circular 570.

If applicable State laws require separate bonds as security (1) for the faithful performance of the Contract and (2) for the payment of all services, labor, and materials, paragraph "b" above must be revised in accordance with the statutory requirements of the particular State. These bonds shall be signed by a guaranty or surety company listed in the latest of the U.S. Treasury Circular 570 and the total penal sum shall be within the maximum specified for such company in said Circular 570.

- c. The failure of the successful Bidder to execute such Agreement and to supply the required bond or bonds within ten days after the prescribed forms are presented for signature, or within such extended period as the Local Public Agency may grant, based upon reasons determined sufficient by the Local Public Agency, shall constitute a default, and the Local Public Agency may either award the Contract to the next lowest responsible Bidder or readvertise for Bids, and may charge against the Bidder the difference between the amount of the Bid and the amount for which a Contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the Bid Bond. If a more favorable Bid is received by readvertising, the defaulting Bidder shall have no claim against the Local Public Agency for a refund.

16. **WAGES AND SALARIES**

- a. Attention of Bidders is particularly called to the requirements concerning the payment of not less than the prevailing wage and salary rates specified in the Contract Documents and the conditions of employment with respect to certain categories and classifications of employees. See GENERAL CONDITIONS, PART II, Federal Labor Standards.
- b. The rates of pay set forth under GENERAL CONDITIONS, PART II, are the minimums to be paid during the life of the Contract. It is therefore the responsibility of Bidders to inform themselves as to local labor conditions, such as the length of work day and work week, overtime compensation, health and welfare contributions, labor supply and prospective changes or adjustments of rates.

17. EQUAL EMPLOYMENT OPPORTUNITY

Attention of Bidders is particularly called to the requirement for ensuring that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin. (See Section 134 hereof.)

BID FOR UNIT PRICE CONTRACTS

Place City of La Salle City Hall
Date April 21, 2011
Project North Joliet St. Sewer Rehab.

Proposal of _____ (hereinafter called "Bidder") a corporation, organized and existing under the laws of the State of _____, a partnership, or an individual doing business as _____. To the _____ (hereinafter called "Owner").

Gentlemen:

The Bidder, in compliance with your invitation for bids for the construction of a separated storm and sanitary sewer network, having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in written Notice to Proceed of the Owner and to fully complete within 60 working days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages the sum of \$750.00, as per Section 108.09 of the STANDARDS, for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

Bidder acknowledges receipt of the following addendum:

1. Change San. Pipe Sizes; Replace MH's; Lengthen working completion days.

*Insert corporation, partnership or individual as applicable.

Bidder agrees to perform all the various work described in the specifications and shown on the plans for the following unit prices:

BID FOR UNIT PRICE CONTRACTS

Place City of La Salle City Hall

Date April 21, 2011

Project North Joliet St. Sewer Rehab.

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Gentlemen:

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Bidder hereby agrees to commence work under this contract on or before a date to be specified in written Notice to Proceed of the Owner and to fully complete within 60 working days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages the sum of \$750.00, as per Section 108.09 of the STANDARDS, for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

Bidder acknowledges receipt of the following addendum:

*Insert corporation, partnership or individual as applicable.

Bidder agrees to perform all the various work described in the specifications and shown on the plans for the following unit prices:

Item No.	Est. Qty.		Description	Unit Price (Each)	Total
1	Sq. Yd.	1,500	Topsoil, Furnish and Place, 4	\$	Dollars & Cents
					\$
2	AC	0.03	Seeding, Class 1A	\$	Dollars & Cents
					\$
3	AC	0.03	Mulch, Method 2	\$	Dollars & Cents
					\$
4	FT	379	Storm Sewers, Class B, T2, 12	\$	Dollars & Cents
					\$
5	FT	97	Storm Sewers, Class B, T2, 18	\$	Dollars & Cents
					\$
6	FT	382	Storm Sewers, Class B, T2, 20	\$	Dollars & Cents
					\$
7	FT	1,165	Sanitary Sewer, PVC, SDR-26, 8	\$	Dollars & Cents
					\$
8	FT	525	Sanitary Sewer, PVC, SDR-26, 16	\$	Dollars & Cents
					\$
9	EACH	8	Ty B Inlets, T3 Fr. & Gr.	\$	Dollars & Cents
					\$
10	EACH	2	Catch Basins, 4 Dia., T8 Fr. & Gr.	\$	Dollars & Cents
					\$
11	EACH	5	Catch Basins, 4 Dia., T1 Fr., CL	\$	Dollars & Cents
					\$
12	FT	240	Sanitary Sewer, PVC, 6	\$	Dollars & Cents
					\$

13	EA	35	Sewer Service Connection, 8	\$	Dollars & Cents
					\$
14	EA	13	Sewer Service Connection, 16	\$	Dollars & Cents
					\$
15	EA	2	Connection to Existing Man-hole	\$	Dollars & Cents
					\$
16	Sq. Yd.	1,943	Pavement Removal & Replacement	\$	Dollars & Cents
					\$
17	Sq. Yd.	58	Driveway Pavement, Rem. & Rplc.	\$	Dollars & Cents
					\$
18	FT	646	CC&G TB Spcl AEP	\$	Dollars & Cents
					\$
19	FT	152	CC&G Rem & Rplc B-6.18	\$	Dollars & Cents
20	EACH	4	Adjust Watermain	\$	Dollars & Cents
					\$
21	L Sum	1	Traffic Control Complete	\$	Dollars & Cents
					\$
22	Cu. Yd.	1,657	Trench Backfill	\$	Dollars & Cents
					\$
23	Sq. Ft.	20	PCC Sidewalk 4, Rem. & Rplc.	\$	Dollars & Cents
					\$
24	EACH	10	Water Services Reconnect	\$	Dollars & Cents
					\$
25	EACH	12	MH TA 4 Dia. T1F CL	\$	Dollars & Cents
					\$

Total of Bid	Dollars & Cents
	\$

CONDITIONAL ITEMS			ITEMS	UNIT PRICE (EACH)	TOTAL
	UNIT	QUANTITY			
1	Sq. Yd.	2,433	HMA Surf Rem, 2	\$	Dollars & Cents
				\$	\$
2	Ton	219	HMA SC Mix C N50	\$	Dollars & Cents
				\$	\$
3	Sq. Yd.	4376	Area Reflective Crack Control Treatment	\$	Dollars & Cents
				\$	\$
			Total of Bid		Dollars & Cents
				\$	

(Final Amounts are to be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.)

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of thirty (30) calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of the acceptance of this bid, Bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or Bonds as required by Paragraph 15b of the Instruction to Bidders. The bid security attached in the sum of 5% of the bid proposal (\$) is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By: _____
(Title)

(SEAL — if bid is by a corporation)

(Business Address and Zip Code)

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned, _____ as PRINCIPAL, AND _____, as SURETY are held and firmly bound unto the City of La Salle hereinafter called the Local Public Agency in the penal sum of _____ Dollars, (\$_____), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that Whereas the Principal has submitted the Accompanying Bid, dated _____, _____, for _____.

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period specified therein after the opening of the same, or, if no period be specified, within thirty (30) days after the said opening, and shall within the period specified therefore, or if no period specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written Contract with the Local Public Agency in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such bond within the time specified, if the Principal shall pay the Local Public Agency the difference between the amount specified in said Bid and the amount for which the Local Public Agency may procure the required work or supplies or both, if the latter be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of _____, _____, the name and corporate seal of each corporate party being hereto affixed and these present signed by its undersigned representative, pursuant to authority of its governing body.

1. Forms of Bid Bonds prepared to meet the requirements of local or State laws or the needs of the Local Public Agency should be substituted for this form where necessary.

_____(SEAL)

_____(SEAL)

Attest:

By: _____

Attest:

By: _____

Affix
Corporate
Seal

By: _____

Affix
Corporate
Seal

Countersigned by _____

2. Attorney-in-Fact, State of _____

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____,
_____, Secretary of the Corporation named as Principal in
the within bond; that _____, who signed the said bond on behalf
of the Principal was then _____ of said
corporation; that I know his signature, and his signature thereto is genuine; and that
said bond was duly signed, sealed, and attested to for and in behalf of said corporation
by authority of this governing body.

Title _____

Corporate
Seal

2. Power-of-attorney for person signing for surety company must be attached to bond.

STATEMENT OF BIDDER'S QUALIFICATIONS

(To be submitted by the Bidder only upon the specific request of the Local Public Agency.)

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information he or she desires.

1. Name of the Bidder.
2. Permanent main office address.
3. When were you organized?
4. If a corporation, in what state were you incorporated?
5. How many years have you been engaged in the contracting business under your present firm or trade name?
6. Contracts on hand: (Please schedule these, showing amount of each contract and the appropriate anticipated dates of completion).
7. Describe the general character of work performed by your company.
8. Have you ever failed to complete any work awarded to you?
9. Have you ever defaulted on a contract?
10. List the more important projects recently completed by your company, stating the approximate cost for each, and the month and year the project was completed.
11. List your major equipment that will be made available for this contract.
12. State your experience in construction work similar in importance to this project.
13. List the background and experience of the principal members of your organization, including the officers.
14. Indicate the present amount of credit available to you: \$_____.
15. Please provide a bank credit reference: _____.
16. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the _____?
17. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the _____ in verification of the recitals comprising this Statement of Bidder's Qualifications.

Dated at _____, this the _____ day of _____, _____.

(Name of Bidder)

By _____

Title _____

State of _____)
County of _____) ss.

_____ being duly sworn deposes and says that he is _____ of _____ and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this the _____ day of _____, _____.

(Notary Public)

My Commission expires _____, _____.

CONTRACT

THIS AGREEMENT made this the _____ day of _____, _____, by and between _____ (a corporation organized and existing under the laws of the State of _____) (a partnership consisting of _____) (an individual trading as _____) [Note 1] hereinafter called the "Contractor", and the City of La Salle hereinafter called the "Local Public Agency."

WITNESSETH, that the Contractor and the Local Public Agency for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work. The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete all work required for the construction of the Improvements embraced in the Project; namely, separating storm water from an existing combination sewer by means of installing a storm sewer network and replacement of the existing combination sewer and required supplemental work for the NORTH JOLIET STREET SEWER REHABILITATION project, all in strict accordance with the contract documents including all addenda thereto, numbered _____, dated _____ and _____, all as prepared by the City of La Salle City Engineer acting and in these contract documents preparation, referred to as the "Engineer".

Special Notes:

Note 1. Strike out the two terms not applicable.

Note 2. Identify the principal items of Contract such as grading, paving, water mains, sewer lines, treatment facilities, etc.

ARTICLE 2. The Contract Price. The Local Public Agency will pay the Contractor for the performance of the Contract in current funds, for the total quantities of work performed at the *unit prices* stipulated in the Bid for the several respective items of work completed subject to additions and deductions as provided in Section 109 hereof.

Alternate Pricing Techniques: In the event the statutory provisions require the contract price to be a fixed sum, in the absence of an approved form, the following should be substituted for Article 2 above.

"ARTICLE 2. The Contract Price. The Local Public Agency will pay the Contractor for the performance of the Contract, in current funds, subject to additions and deductions as provided in Section 109 hereof, the sum of _____ Dollars (\$_____)."

ARTICLE 3. The Contract. The executed contract documents shall consist of the following components:

- | | |
|----------------------------|--|
| a. This Agreement | f. General Conditions, Parts I and II |
| b. Addenda | g. Special Conditions |
| c. Invitation for Bids | h. Technical Specifications |
| d. Instructions to Bidders | i. Drawings (<i>as listed in the Schedule of Drawings</i>) |
| e. Signed Copy of Bid | |

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in three [Note 3] original copies on the day and year first above written.

(The Contractor)

By _____ [Note 4]

Title _____

(Local Public Agency)

By _____

Title _____

Special Notes:

Note 3. The number of copies to be executed by the parties must be stated in the agreement in the space provided. Such additional signed copies shall be prepared as may be required by the surety companies and others. All copies, including conformed copies, shall be compared and checked before distribution.

Note 4. Supply a description of the Contractor (e.g., proprietorship, partnership, corporation).

CORPORATE CERTIFICATIONS

I, _____, certify that I am the _____ of the corporation named as Contractor herein; that _____ who signed this Agreement on behalf of the Contractor, was then _____ of said corporation; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate
Seal

(Corporate Secretary)

PERFORMANCE AND PAYMENT BOND (OR BONDS)

Following the Form of Agreement, insert the approved form of the statutory *surety bond or bonds* to insure the performance of the Contract and payment of labor and materials. In addition to the corporation signatures of the surety company(ies) on the bond(s), each bond should be *countersigned* by the surety company's attorney-in-fact, authorized to act within the state in which the project is situated.

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of _____ do hereby certify as follows:

I have examined the attached Contract (s) and Performance and Payment Bond (s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements are adequate and have been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof.

Date: _____

Note: Delete phrase "Performance and Payment Bonds" when not applicable.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____)

County of _____) ss.

_____, being first duly sworn, deposes and says that:

1. He is _____ of _____, the Bidder that has submitted the attached Bid;
2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the (*Local Public Agency*) or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed)

(Name & Title)

Subscribed and sworn to before me
this ____ day of _____, _____

(Notary Public)

My commission expires _____.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER (Include ZIP Code)

-
1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
☐ Yes ☐ No
-
2. Compliance reports were required to be filed in connection with such contract or subcontract.
☐ Yes ☐ No
-
3. Bidder has filed all compliance reports due under applicable instructions.
☐ Yes ☐ No ☐ None Required
-
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?
☐ Yes ☐ No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE

DATE

Replaces Form HUD-1238.CD-1, which is obsolete.

HUD-950.1(11-78)

**CERTIFICATION OF BIDDER REGARDING SECTION 3
AND SEGREGATED FACILITIES**

Name of Prime Contractor

Project Name and Number

The undersigned hereby certifies that

- a. Section 3 provisions are included in the Contract
- b. A written Section 3 plan was prepared and submitted as part of the bid proceedings.
- c. No segregated facilities will be maintained, as required by Title IV of the Civil Rights Act of 1964.

Name and Title of Signer (Print or Type)

Signature

Date

Section 3 Plan Format

_____ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower-income residents and businesses located within the Village/City _____ or County of _____

- a. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- b. To attempt to recruit from within the city the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or U.S. Employment Service.
- c. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- *d. To insert this Section 3 plan in all bid documents, and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- e. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- f. To insure that all appropriate project area business concerns are notified of pending subcontractual opportunities.
- g. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- h. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.
- i. To list on Table A, information related to subcontracts.

*Loans, grants, contracts and subsidies for less than \$100,000 will be exempt.

Section 3 Plan (*cont'd*)

j. To list on Table B, all projected workforce needs for all phases of this project by occupation, trade, skill level and number of positions.

As officers and representatives of _____
(Name of Contractor)

We the undersigned have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

PROPOSED SUBCONTRACTS BREAKDOWN - TABLE A

FOR THE PERIOD COVERING _____, _____ through _____, _____
(Duration of the CDBG-Assisted Project)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
TYPE OF CONTRACT (BUSINESS OR PROFESSION)	TOTAL NUMBER OF CONTRACTS	TOTAL APPROXIMATE DOLLAR AMOUNT	ESTIMATED NO. OF CONTRACTS TO PROJECT AREA BUSINESS	ESTIMATED DOLLAR AMOUNT TO PROJECT AREA BUSINESSES

*The Project Area is coextensive with the City/Village/County of _____'s boundaries.

Company

Project Name

Project Number

EEO Officer (Signature)

Date

ESTIMATED PROJECT WORKFORCE BREAKDOWN - TABLE B

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
JOB CATEGORY	TOTAL EST. POSITIONS	NO. POSITIONS BY PERMANENT EMPLOYEES	NO. POSITIONS NOT CURRENTLY OCCUPIED	NO. POSITIONS TO BE FILLED WITH L.I.P.A.R. *
OFFICERS/SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/RENTAL/ MANAGEMENT				
OFFICE CLERICAL				
SERVICE WORKERS				
OTHERS				
TRADE:				
JOURNEYMAN				
HELPERS				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				
TRADE:				
JOURNEYMAN				
HELPERS				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				
TRADE:				
JOURNEYMAN				
HELPERS				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				
TOTALS:				

*Lower Income Project Area residents.

Individuals residing within the City of _____ whose family income does not exceed 80% of the median income in the SMSA.

COMPANY

GENERAL SPECIFICATIONS

GENERAL CONDITIONS PART I

101. DEFINITIONS

Whenever used in any of the Contract documents, the following meanings shall be given to the terms herein defined:

- a. The term "*Contract*" means the Contract executed by the Local Public Agency and the Contractor, of which these GENERAL CONDITIONS, PARTS I AND II form a part.
- b. The term "*Local Public Agency*" means the CDAP grantee or in this instance, the (*name of local government*) which is authorized to undertake this Contract.
- c. The term "*Contractor*" means the person, firm or corporation entering into the Contract with the Local Public Agency to construct and install the Improvements embraced in this Contract.
- d. The term "*Project Area*" means the area within which are the specified Contract limits of the Improvements contemplated to be constructed in whole or in part under this contract.
- e. The term "*Engineer*" means the City of La Salle, IL, Engineer in charge, serving the Local Public Agency with architectural or engineering services, his successor, or any other person or persons, employed by said Local Public Agency for the purpose of directing or having in charge the work embraced in this Contract, the said Engineer acting directly or having in charge the work embraced in this Contract, the said Engineer having general charge of the work or through any assistant having immediate charge of a portion thereof limited by the particular duties entrusted to him.
- f. The term "*Local Government*" means the town, village, city, county(ies) or other political subdivision of the State of Illinois within which the Project Area is situated.
- g. The term "*Contract Documents*" means and shall include the following: Executed Contract, Addenda (*if any*), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions, Parts I and II, Special Conditions, Technical Specifications, and Drawings (*as listed in the Schedule of Drawings*).
- h. The term "*Subcontractor*" means an individual, firm, or corporation having a contractual responsibility with the general contractor or with any other subcontractor for the performance of a part of the work at the site.

- l. The term "*Drawings* " means the drawings listed in the Schedule of Drawings.
- j. The term "*Technical Specifications* " means that part of the Contract Documents which describes, outlines and stipulates: the quality of the materials to be furnished; the quality of workmanship required; and the methods to be used in carrying out the construction work to be performed under this Contract.
- k. The terms "*Addendum* " or "*Addenda* " mean any changes, revisions or clarifications of the Contract Documents which have been duly issued by the Local Public Agency to prospective Bidders prior to the time of receiving Bids.
- l. The term "*Secretary* " means the Secretary of Housing and Urban Development, or other person who may be at the time acting in the capacity or authorized to perform the functions of such secretary, or the authorized representative thereof.
- m. The term "*Department*" means the Illinois Department of Commerce and Economic Opportunity.

102. SUPERINTENDENCE BY CONTRACTOR

- a. Except where the Contractor is an individual and gives his personal superintendence to the work, the contractor shall provide a competent superintendent, satisfactory to the Local Public Agency and the Engineer, on the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.
- b. The Contractor shall lay out his own work and he shall be responsible for all work executed by him under the Contract. He shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

103. SUBCONTRACTS

- a. The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this contract until he has submitted a Non-Collusion Affidavit from the subcontractor in substantially the form shown on the following page and has received written approval of such subcontractor from the Local Public Agency.
- b. No proposed subcontractor shall be disapproved by the Local Public Agency except for cause.
- c. The Contractor shall be as fully responsible to the Local Public Agency for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

- d. The Contractor shall cause appropriate provision to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions of the Contract.
- e. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the Local Public Agency.
- f. The Contractor shall not award work to Subcontractor(s) in excess of 50 percent of the contract price without prior written approval of the Local Public Agency.

104. OTHER CONTRACTS

The Local Public Agency may award, or may have awarded other contracts for additional work, and the Contractor shall cooperate fully with such other Contractors, by scheduling his own work with that to be performed under other Contracts as may be directed by the Local Public Agency. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor as scheduled.

105. FITTING AND COORDINATION OF WORK

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or materialmen engaged upon this Contract. He shall be prepared to guarantee to each of his subcontractors the locations and measurements which they may require for the fitting of their work to all surrounding work.

106. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts or neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work the Contractor shall settle with such other Contractor or subcontractor by agreement or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Local Public Agency on account of any damage alleged to have been so sustained, the Local Public Agency will notify this Contractor, who shall defend at his own expense any suit based upon such claim, and, if any judgment or claims against the Local Public Agency shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

107. PROGRESS SCHEDULE

- a. The Contractor shall submit for approval immediately after execution of the Agreement, a carefully prepared Progress Schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due the Contractor, and the accumulated percent of progress each month.

b If a lump sum Contract Price is deemed advisable, the following paragraph should be added here:

COST BREAKDOWN - The Contractor shall submit to the Local Public Agency a breakdown of his estimated cost of all Site Preparation work, so arranged and itemized as to meet the approval of the Local Public Agency. The breakdown shall be submitted promptly after execution of the agreement and before any payment is made to the Contractor for the work performed under the Contract. After approval by the Local Public Agency the unit prices established in the breakdown shall be used in estimating the amount of partial payments to be made to the Contractor.

108. PAYMENTS TO CONTRACTOR

1. Partial Payments

- a. The Contractor shall prepare the requisition for partial payment as of the last day of the month and submit it, with the required number of copies, to the Engineer for approval. The amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting (1) ten percent (10%) of the total amount, to be retained until final payment and (2) the amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed and on the unit prices contained in the agreement. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection of the Engineer.

Payment shall be made to the Contractor within 45 days of the Local Public Agency's (at the engineer's recommendation) approval of a partial pay request.

- b. Monthly or partial payments made by the Local Public Agency to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the Local Public Agency. Such payments shall not constitute a waiver of the right of the Local Public Agency to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the Local Public Agency in all details.

c. If a lump sum contract price is deemed advisable, revise: the third sentence in paragraph (a.) under "*Partial Payments*" to read as follows:

The total value of work completed to date shall be based upon the estimated quantities of work completed to date on each item and the unit prices established in the COST BREAKDOWN and adjusted in accordance with the value of work completed to date on approved change orders.

2. Final Payment

- a. After final inspection and acceptance by the Local Public Agency of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices stipulated in the Agreement. The total amount of the final payment due the Contractor under this contract shall be the amount computed as described above less all previous payments.

Final payment to the Contractor shall be made subject to his furnishing the Local Public Agency with a release in satisfactory form of all claims against the Local Public Agency arising under and by virtue of his Contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided under Section 113 hereof. Final payment is also contingent upon the Local Public Agency's receipt of a complete set of "*as built*" drawings approved by the project engineer based upon information provided by the contractor.

- b. If a *lump sum* Contract Price is deemed advisable, the following paragraph should be added here:

The amount of the final payment due the contractor shall be the lump sum shown in the Agreement or this sum as adjusted by approved change orders.

- c. The Local Public Agency, before paying the final estimate, may require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor, if the Local Public Agency deems the same necessary in order to protect its interest. The Local Public Agency, however, may if it deems such action advisable make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

d. Withholding of any amount due the Local Public Agency under Section 303, entitled Liquidated Damages, under SPECIAL CONDITIONS, shall be deducted from the final payment due the Contractor.

3. Withholding Payments

- a. The Local Public Agency may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the Local Public Agency and if it so elects may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Local Public Agency and will not require the Local Public Agency to determine or adjust any claims or disputes between the Contractor and his subcontractors or Material Dealers, or to withhold any moneys for their protection unless the Local Public Agency elects to do so. The failure or refusal of the Local Public Agency to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

4. Payments Subject to Submission of Certificates

Each payment to the Contractor by the Local Public Agency shall be made subject to submission by the Contractor of all written certifications required of him and his subcontractors by Section 215 hereof.

109. CHANGES IN THE WORK

- a. The Local Public Agency may make changes in the scope of work required to be performed by the Contractor under the Contract or making the Contract, and without relieving or releasing the Contractor from any of his obligations under the Contract or any guarantee given by him pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.
- b. Except for the purpose of affording protection against any emergency endangering health, life, limb or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the Improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Local Public Agency authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.

- c. If applicable unit prices are contained in the Agreement (established as a result of either a unit price bid or a Supplemental Schedule of Unit Prices) the Local Public Agency may order the Contractor to proceed with desired unit prices specified in the Contract, provided that in case of a unit price contract the net value of all changes does not increase or decrease the original total amount shown in the Agreement by more than 25 percent (25%) in accordance with the Section entitled Unit Prices, under Instructions to Bidders.
- d. If applicable unit prices are not contained in the Agreement or if the total net change increases or decreases the total Contract Price more than 25 percent (25%), the Local Public Agency shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:
1. If the proposal is acceptable the Local Public Agency will prepare the change order in accordance therewith for acceptance by the Contractor and
 2. If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Local Public Agency may order the Contractor to proceed with the work on a cost-plus-limited basis. A cost-plus-limited basis is defined as the net cost of the Contractor's labor, materials and insurance plus 15 percent (15%) of said net cost to cover overhead and profit, the total cost not to exceed a specified limit.
- e. Each change order shall include in its final form:
1. A detailed description of the change in the work.
 2. The Contractor's proposal (if any) or a confirmed copy thereof.
 3. A definite statement as to the resulting change in the Contract Price and/or time.
 4. The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.
- f. The procedures as outlined in this section for a unit price contract also apply in the case of a lump sum contract.

110. CLAIMS FOR EXTRA COST

- a. If the Contractor claims that any instructions by Drawings or otherwise involve extra cost or extension of time, he shall, within ten days after the receipt of such instructions, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Local Public Agency, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.
- b. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.
- c. Any discrepancies which may be discovered between actual conditions and those represented by the Drawings and maps shall at once be reported to the Local Public Agency and work shall not proceed except at the Contractor's risk, until written instructions have been received by him from the Local Public Agency.
- d. If, on the basis of the available evidence, the Local Public Agency determines that an adjustment of the Contract Price and/or Time is justifiable, the procedure shall be as provided in Section 109 thereof.

111. TERMINATION, DELAYS AND LIQUIDATED DAMAGES

- a. *Right of the Local Public Agency to Terminate Contract.* In the event that any of the provisions of this Contract are violated by the Contractor, or by any of his subcontractors, the Local Public Agency may serve written notice upon the Contractor and the surety of its intention to terminate the contract, such notices to contain the reasons for such intention to terminate the Contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Local Public Agency shall immediately serve notice thereof upon the surety and the Contractor and the surety shall have the right to take over and perform the Contract; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of the mailing to such surety of notice of termination, the Local Public Agency may take over the work and prosecute the same to completion by Contract or by force account for the account and at the expense of the Contractor and the Contractor and his surety shall be liable to the Local Public Agency for any excess cost occasioned the Local Public Agency thereby, and in such event the Local Public Agency may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

b. *Liquidated Damages for Delays.* If the work is not completed within the time stipulated in Section 302 hereof, including any extension of time for excusable delays as herein provided, then the Contractor will pay to the Local Public Agency the amount for liquidated damages as specified in the Bid for each calendar day that the Contractor shall be in default. The Contractor and his sureties shall be liable to the Local Public Agency for the amount thereof.

c. *Excusable Delays.* The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due:

1. To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;
2. To any acts of the Local Public Agency;
3. To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other contract with the Local Public Agency, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and
4. To any delay of any subcontractor occasioned by any of the causes specified in subparagraphs (1), (2), and (3) of this paragraph "c".

Provided, however, that the Contractor promptly notifies the Local Public Agency within ten (10) days in writing of the cause of the delay. Upon receipt of such notification the Local Public Agency shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this Contract, the delay is properly excusable, the Local Public Agency shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

112. ASSIGNMENT OR NOVATION

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the Local Public Agency; provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the Local Public Agency. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.